

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ERIC M. MISKOVITCH,)	
)	Civil Action No. 06 - 1410
Plaintiff,)	
)	Donetta W. Ambrose/
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
LT.HOSTOFFER, et al.,)	Doc. No. 101, 106
)	
Defendants.)	

MEMORANDUM ORDER

On July 29, 2009 (doc. no. 101) plaintiff filed a five part motion which the court ruled upon, denying three requests and ordering responses to the remaining two. (doc. no. 104). On September 11, 2009 plaintiff filed a reconsideration of the court's order at doc. no. 104. That motion was granted and the court ordered responses by September 21 and September 25. Based upon the responses filed, the following order is entered.

1. Subpoena to SCI-Greensburg

Plaintiff avers that he sent a court subpoena to the Superintendent of SCI-Greensburg on June 21, 2009. He further avers that the subpoena was not responded to. SCI-Greensburg is not a party to this action, however, there are Defendants herein who are employees of the Pennsylvania Department of Corrections ("DOC") and represented by counsel for the Department of Corrections. The Court ordered counsel

for the DOC Defendants, Mr. Scott Bradley, to inquire of the Superintendent of SCI-Greensburg whether this subpoena was received, if the Superintendent has the requested documents and whether there are any objections to their production. A report was to be made to the Court no later than **September 21, 2009**. As of today, no report has been received. Therefore, counsel is **Ordered to Show Cause** no later than **October 5, 2009** as to why he should not be sanctioned for failure to comply with the Court's previous order.

2. Failure of ACJ and WCP Defendants to comply with discovery requests

Plaintiff alleges that he did not receive satisfactory responses to his interrogatories to Defendant Reese, who is now retired, and asks that another defendant respond as the questions are "generic"; Defendant Rodriguez did not respond to interrogatories; and no documents have been provided. He further avers that he did not receive responses from Defendant Cmar and the Westmoreland County Jail. Pursuant to the response received from the defendants, this discovery information was mailed to the plaintiff. Therefore, plaintiff's motion is **Denied without prejudice**.

3. Motion to secure witness testimony

Plaintiff alleges that he had been attempting to obtain an affidavit from a witness and fellow inmate, Jeremy Pawlak. Pursuant to the response received from counsel for the Allegheny County Jail, attempts have been made to assist in plaintiff's request and administrators at that facility stand ready to assist once plaintiff has prepared the affidavit in question. Therefore, plaintiff's motion is **Denied without prejudice**.

4. Request for Order to call Detective Kranitz

Plaintiff asks the Court to order a Captain from the Allegheny County Jail to allow

him to call a detective who interviewed him at an earlier date. Pursuant to the response filed by the defendants, the information requested has been sent to the plaintiff.

Therefore, plaintiff's motion is **Denied without prejudice.**

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.C.2 of the Local Rules of Court. Failure to appeal within ten (10) days shall constitute waiver of the right to appeal.

Dated: 9/29/09



Lisa Pupo Lenihan
United States Magistrate Judge

cc:

ERIC M. MISKOVITCH
49844
Allegheny County Jail
950 2nd Avenue
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